



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 16, 2003

Mr. Kuruvilla Oommen  
Assistant City Attorney  
City of Houston - Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR2003-6483

Dear Mr. Oommen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 187765.

The Houston Police Department (the "department") received a written request for fifteen specified offense reports. You contend that ten of the requested offense reports are excepted from required disclosure pursuant to sections 552.108 and 552.130 of the Government Code.<sup>1</sup>

Section 552.108(a)(1) of the Government Code excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." Section 552.108(a)(1) protects information pertaining to a pending criminal investigation or prosecution because the release of such information presumptively would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You state that the offense reports you submitted to this office as Exhibits 3, 4, 5, 6, 7, 8, 11, and 12 pertain to pending criminal investigations or prosecutions. We therefore conclude that the department may withhold most of the information contained in those offense reports pursuant to section 552.108(a)(1) of the Government Code.

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<sup>1</sup>We assume the department has released the remaining requested offense reports to the requestor. If it has not, it must do so at this time. *See* Gov't Code §§ 552.301, .302.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*. Accordingly, the department must release these types of information, including a detailed description of each alleged offense, from Exhibits 3, 4, 5, 6, 7, 8, 11, and 12 in accordance with *Houston Chronicle*.

You next seek to withhold the offense reports you submitted to this office as Exhibits 9 and 10 pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) of the Government Code excepts from required public disclosure “[i]nformation held by a law enforcement agency . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” You inform us that these two offense reports pertain to criminal investigations that did not result in a conviction or deferred adjudication. After reviewing the information at issue, we conclude that the department may withhold most of Exhibits 9 and 10 pursuant to section 552.108(a)(2) of the Government Code.

However, as noted above, section 552.108 does not except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Consequently, the department must release all basic information, including a detailed description of the alleged offenses, from these two offense reports in accordance with *Houston Chronicle*.

In summary, the department may withhold pursuant to section 552.108(a)(1) most of the information contained in Exhibits 3, 4, 5, 6, 7, 8, 11, and 12. The department may also withhold pursuant to section 552.108(a)(2) most of the information contained in Exhibits 9 and 10. However, the department must release all “basic information” contained in these reports.<sup>2</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

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<sup>2</sup>Because we resolve your request under section 552.108, we need not address the applicability of section 552.130.

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

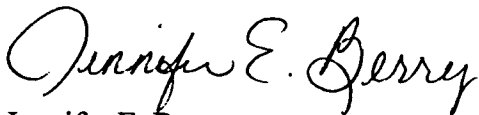
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Jennifer E. Berry". The signature is written in a cursive, flowing style.

Jennifer E. Berry  
Assistant Attorney General  
Open Records Division

JEB/RWP/seg

Ref: ID# 187765

Enc: Submitted documents

c: Mr. David T. Dorr, PE  
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(w/o enclosures)